

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

In the Matter of)	
)	MM Docket No. <u>00-39</u>
Review of the Commission's)	
Rules and Policies Affecting the)	
Conversion to Digital Television)	

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To: The Commission

APR 6 2001

**COMMENTS ON THE MSTV/NAB/ALTV
 PETITION FOR RECONSIDERATION**

FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF THE SECRETARY

Introduction

Holston Valley Broadcasting Corporation (Holston). Licensee of WKPT-TV, channel 19; Kingsport, Tennessee, and permittee of digital television (DTV) station, WKPT-DT, channel 27, which is currently operating under Special Temporary Authority (an STA) from the Commission, hereby submits its comments on the Petition for Reconsideration (the Petition) filed by the National Association of Broadcasters, the Association for Maximum Service Television, Inc., and the Association of Local Television Stations, Inc., in the matter of the Commission's *2000 DTV Biennial Review Order (the "Order")*.

Holston is supportive of the goals of the Petition, and wishes through these Comments to focus the Commission's attention on what it believes to be a particular inequity the Commission's current policy visits on stations whose analog facilities are in the UHF band and whose digital transmission facilities are or will also be UHF. While the typical analog VHF station has been allocated UHF digital facilities with effective radiated power (ERP) levels at or near one million watts in an effort to replicate the

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licensee's analog VHF coverage, analog UHF stations were allocated significantly less power for their UHF digital facilities, often less than one hundred kilowatts ERP. These lower powers were selected by the Commission to replicate the analog coverage of the UHF licensee. Later in response to the requests of a number of UHF analog licensees the Commission wisely allowed analog UHF licensees to apply for maximized digital facilities.¹

Inequity for Analog UHF Licensees

The inequity, which now exists, lies in the fact that under the Commission's *Order* analog VHF licensees have until the end of year 2004 to build out the high power UHF DTV facilities they have been allotted without the threat of having those allotted authorized facilities encroached on by other applicants. In contrast, analog UHF licensees, who hold construction permits for maximized DTV facilities will be protected from third party encroachment upon the added coverage provided by those maximized facilities only until May 1, 2002. In effect, they may be forced to build those maximized facilities long before a viable digital television market has developed, or face being limited to the relatively low power UHF digital facilities they were originally allotted.

Such a policy favors VHF analog stations, which are almost universally much stronger financially than their UHF analog competitors. The VHF analog licensee can construct a very low power digital facility at an extremely modest cost and operate that facility until the end of 2004, knowing that its right to construct a million watt UHF DTV

¹ Based on informal discussions with the staff, Holston estimates that the Commission has granted between 1,000 to 1,100 DTV construction permits and about half of these have been for facilities in excess of what is specified in the DTV Table of Allotments. Holston estimates that few, if any, of these permittees have constructed their maximized DTV facilities. Thus, the universe of similarly-situated DTV stations is

facility and to the increased coverage that facility should have is protected by the DTV Table of Allotments until, at least, that date. Meanwhile the generally less well-funded analog UHF licensee, which has already paid the price of constructing a high power UHF analog facility and has paid the resulting high power bills for decades would be forced to construct its maximized DTV facilities by May 1, 2002, over two and a half years sooner than its analog VHF competitors.²

Holston's Digital Circumstances

Holston's WKPT-DT was allotted only 54,000 watts ERP on channel 27. Holston applied for and was granted by the Commission a construction permit for a maximized 200,000 watt ERP DTV facility (FCC File No. BPCDT-19991029AFJ). Last fall under an STA from the Commission, Holston constructed an interim facility for WKPT-DT with an ERP of 5,400 watts, the first DTV station constructed by a television broadcaster licensed to a community in the State of Tennessee. Holston's reasonable business plan is to upgrade this interim facility to around 48,000 watts ERP within the next year and construct its maximized 200,000 watt facility by the end of 2004. Holston could implement this schedule without fear if it were an analog VHF station; however, as an analog UHF licensee, Holston (and similarly-situated stations) must forecast its planning on a May 1, 2002 deadline, unless the FCC modifies this aspect of the *Order* as requested by NAB in its Petition and supported by Holston herein. Absent a change in

substantial. Obviously these licensees wish ultimately to provide the maximum possible DTV coverage of their respective markets.

² A long time UHF licensee such as Holston can't help comparing this policy to the Commission's former policy of granting VHF translator licenses only to VHF full service licensees while only granting UHF translator licenses to UHF full service broadcasters. (Of course under that policy the VHF full service licensee could also be granted licenses for UHF translators.) The Commission wisely saw the unfairness of

Commission policy, Holston, whose financial profits in the years its television station makes a profit are perpetually dwarfed by those of its two VHF competitors (both of whom have built or plan to build interim powered UHF DTV facilities with the knowledge that their options to construct million watt DTV coverage facilities as authorized in the DTV Table of Allotments is protected until December 31, 2004) will be forced to spend hundreds of thousands of additional dollars almost immediately and certainly well in advance of when its two VHF market competitors must construct their ultimate DTV transmission facilities .

Action Requested

Holston respectfully requests that the Commission automatically modify the DTV Table of Allotments to reflect the maximized facilities hundreds of analog UHF licensees have been or will be granted and protect those allotments until no sooner than December 31, 2004. The Commission should then either extend the CP's granted for maximized facilities until the end of 2004 with the requirement that such permittees be on the air under an STA with at least minimum DTV facilities by May 1, 2002, or alternatively allow such permittees to modify their current DTV construction permits to specify the lesser facilities while leaving the newly-modified changes to the DTV Table of Allotments for the maximized facilities in place until at least December 31, 2004. In the latter case the permittees would again be required to file timely applications for their maximized facilities in order to be on the air with those maximized facilities by the end of 2004 or such later date as the Commission may ultimately specify.

that policy, and dropped it. In 1981 Holston was pleased to be granted one of the first VHF translator construction permits ever granted to a UHF full service licensee.

Time Is of the Essence

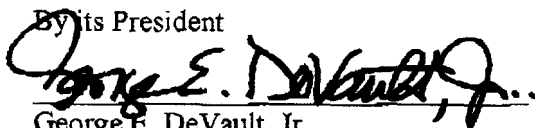
The nation's television broadcasters and television broadcast transmission equipment manufacturers are faced with a deadline, which is scarcely a year away. Absent the requested action by the Commission hundreds of analog UHF broadcasters face the immediate need to order equipment many can ill afford to purchase at this time. This burden is greatest in smaller markets like Holston's Tri-Cities (Kingsport-Johnson City-Bristol), TN/VA, DMA No. 93, and in so-called "intermixed" markets like this same extremely mountainous "Tri-Cities" where VHF stations have perpetually dominated their UHF competitors.

Again Holston submits that it is patently unfair to place on analog UHF broadcasters yet another burden their wealthy analog VHF competitors do not face. Please eliminate this inequity and do so quickly and universally so that analog UHF broadcasters may make rational interim DTV build-out decisions in the same way the analog VHF licensees are now permitted.

Respectfully submitted,

HOLSTON VALLEY BROADCASTING CORPORATION

By its President



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April 4, 2001

CERTIFICATE OF SERVICE

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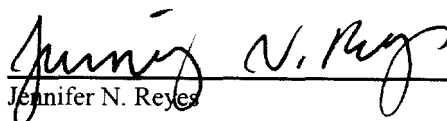
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